



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 7083-21
Ref: Signature Date

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Dear ■

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 23 March 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). The Board also considered an advisory opinion (AO) from a qualified mental health professional dated 31 January 2022, which was previously provided to you.

You enlisted in the Navy Reserves, and began a period of active duty for training from 28 February 1985 through 5 June 1985. You received an honorable characterization for the period of active duty service and subsequently continued your reserve enlistment. On 16 January 1987, you were ordered to active duty. On 15 October 1987, you received non-judicial punishment (NJP) for missing ship's movement and an unauthorized for the period from 23 June 1987 to 6 August 1987, totaling 44 days.

On 20 October 1987, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. You

were advised of, and waived your procedural rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an other than honorable (OTH) characterization of service. The SA approved the CO's recommendation and directed your administrative discharge from the Navy with an OTH characterization of service by reason of misconduct due to commission of a serious offense, and on 12 November 1987, you were so discharged.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 31 January 2022. The AO noted that there is no evidence that you were diagnosed with a mental health condition in service. Additionally, you have not provided any post-service evidence of a diagnosis of a mental health condition. Unfortunately, your personal statement is insufficiently detailed to establish a nexus with your misconduct. The AO concluded that additional information is required to render an alternate opinion and stated that there is insufficient evidence that you may have incurred an unfitting mental health condition during military service and there is insufficient evidence that your misconduct could be attributed to an unfitting mental health condition.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that in 1987, you do not feel that the military was properly equipped and trained to deal with a Sailor's emotional needs and distress during a time of family hardship. Additionally, you believe that if there were more resources available, your outcome would have been drastically different. You further state that when your father passed away, it left you emotionally distraught, and responsible for many more family duties. Unfortunately, the Board, despite applying liberal consideration, did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. In making this determination, the Board substantially concurred with the AO.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your contentions as previously discussed and your desire to upgrade your discharge character of service. For purposes of clemency consideration, the Board noted your submitted documentation; however, you did not provide supporting documentation describing post-service accomplishments, or advocacy letters. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that the seriousness of your misconduct, as evidenced by your NJP for an unauthorized absence exceeding 30 days and missing ship's movement, outweighed these mitigating factors. The Board determined your conduct was a significant departure from that expected of a Sailor and displayed a complete disregard for military authority and regulations. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/29/2022

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Executive Director

Signed by: █